BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Richard & Arlene Haire Dist. 15, Map 106AI, Group A, Control Map 106AI, Parcel 9.00 Residential Property Tax Year 2006	)) Blount County)))

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$151,000	$473,800	$624,800	$156,200

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 14, 2006 in Maryville, Tennessee. In attendance at the hearing were Mr. and Mrs. Haire, the appellants, Mike Morton, Blount County Assessor of Property, and staff appraiser David Weaver.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 2.2 acre tract improved with a residence constructed in 2002 located at 717 Bear Den Road in Townsend, Tennessee.

The taxpayers contended that subject property should be valued at $560,000 with $140,000 allocated to the land and $420,000 to the improvements. In support of this position, the taxpayers essentially made two arguments. First, the taxpayers asserted that the 2006 countywide reappraisal program caused the appraisal of subject property to increase excessively and is not consistent with the assessor's appraisals of other parcels in the area. Second, the taxpayers maintained that subject property experiences a loss in value because of a water supply problem. The taxpayers introduced a letter from the builder of their home, Jerome Salomone, which summarized the problem as follows:

> The well water at 717 Bear Den Road encountered a low-flow rate (nominally 400 gallons per day capacity) and contained 1-2 ppm of sulfide. It was necessary to dig two wells at this location and it was necessary to install a special water treatment to address the sulfide situation. This treatment station was installed by Clearwater Drilling Company. A full disclosure of status of the well water situation was made to purchasers, R.G. Haire and A.B. Haire, prior to the sale.

Mr. Haire testified that the water supply problem effectively precludes more than four individuals from occupying subject property and necessitated installation of a 1,500 gallon storage tank.

The assessor contended that subject property should remain valued at $624,800. In support of this position, two improved and one vacant land sale were introduced into evidence. Mr. Weaver maintained that the comparables support the current appraisal of subject property. Mr. Weaver's analysis was summarized in an adjustment grid included in his exhibit.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at $624,800 as contended by the assessor of property.

The administrative judge finds that the fair market value of subject property as of January 1, 2006 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

> The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .
>
> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. Respectfully, unlike the assessor, the taxpayers did not introduce any comparable sales to substantiate their contention of value. Indeed, Mr. Haire clearly testified that he believed subject property might very well sell for more than the contended value of $560,000.

The administrative judge has little doubt that the water supply problem reduces the value of subject property from what it might otherwise be. Absent additional evidence, however, the administrative judge has no basis to conclude that subject property would sell for less than $624,800 on the relevant assessment date of January 1, 2006.

The administrative judge finds merely reciting factors that could cause a dimunition in value does not establish the current appraisal exceeds market value. The administrative

judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

> The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

> The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

The administrative judge finds that the taxpayers' "equalization" argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a *market value* standard in the review of property assessments. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.[1] The State Board has repeatedly refused to accept the **appraised** values of purportedly comparable properties as sufficient proof of the **market** value of a property under appeal. For example, the Assessment Appeals Commission rejected such an argument in the *Appeal of Stella L. Swope* (Davidson

[1] See Tenn. Code Ann. § 67-5-1604-1606. Usually, in a year of reappraisal-whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values-the appraisal ratio is 1.0000 (100%). That is the situation here.

County, Tax Years 1993 and 1994, Final Decision and Order, December 7, 1995), reasoning at page 2 of its opinion as follows:

> The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

The administrative judge finds the Commission's reasoning equally applicable to the proof in this appeal.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$151,000	$473,800	$624,800	$156,200

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of November, 2006.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Richard & Arlene Haire
Mike Morton, Assessor of Property